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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/047,426

01/14/2002

Thaddeus Marshall

D6163-00012

2585

7590
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Medford, NJ 08055

02/26/2007

EXAMINER

RETTA, YEHDEGA

ART UNIT

PAPER NUMBER

3622

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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31 DAYS

02/26/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary
for Applications
Under Accelerated Examination**

Application No.

10/047,426

Applicant(s)

MARSHALL, THADDEUS

Examiner

Yehdega Retta

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Since this application has been granted special status under the accelerated examination program,
NO extensions of time under 37 CFR 1.136(a) will be permitted and a SHORTENED STATUTORY PERIOD FOR
REPLY IS SET TO EXPIRE:

ONE MONTH OR THIRTY (30) DAYS, WHICHEVER IS LONGER,
FROM THE MAILING DATE OF THIS COMMUNICATION – if this is a non-final action or a *Quayle* action.
(Examiner: For FINAL actions, please use PTOL-326.)

The objective of the accelerated examination program is to complete the examination of an application within twelve months from the filing date of the application. Any reply must be filed electronically via EFS-Web so that the papers will be expeditiously processed and considered. If the reply is not filed electronically via EFS-Web, the final disposition of the application may occur later than twelve months from the filing of the application.

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 3) ☐ Claim(s) ____ is/are pending in the application.
3a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 4) ☐ Claim(s) ____ is/are allowed.
- 5) ☐ Claim(s) ____ is/are rejected.
- 6) ☐ Claim(s) ____ is/are objected to.
- 7) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 8) ☐ The specification is objected to by the Examiner.
- 9) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 10) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 11) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
• See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-11, drawn to rewarding for attention, classified in class 705, subclass 14.
- II. Claims 12-19, drawn identifying user at a location and rewarding the user ,
classified in class 705, subclass 14.
- III. Claim 20-30, drawn to awarding based on time of an event and identification of
the user with connection to the event, classified in class 705, subclass 14.
- IV. Claims 31-32, drawn to entering a lottery, classified in class 705, subclass 14.
- V. Claims 33-35 and 41-44 drawn to enrolling individual in a reward program and
permitting redemption, classified in class 705, subclass 14.
- VI. Claims 36-40, drawn to determining category to which an individual has been
assigned, classified in class 705, subclass 14.
- VII. Claims 45 and 46, drawn to receiving identification from a client upon
establishment of connection to a network resource, classified in class 705,
subclass 14.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II-VII are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, subcombination, invention of Group I, has separate utility such as tracking attention

of an individual and reward the individual based on the attention, which is not a limitation in any of the other independently claimed inventions. See MPEP § 806.05(d).

Inventions III and I, II, IV-VII are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, subcombination, invention of Group III, has separate utility such as receiving identification of an individual in connection to an event and calculating an award based on a correlation between the time of the event and predetermined time criteria, which is not a limitation in any of the other independently claimed inventions. See MPEP § 806.05(d).

Inventions IV and I-III, VII are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, subcombination, invention of Group IV, has separate utility such as receiving identification of an individual in connection to an event and calculating an award based on a correlation between the time of the event and predetermined time criteria, which is not a limitation in any of the other independently claimed inventions See MPEP § 806.05(d).

Inventions V and I-IV, VI, VII are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, subcombination, invention of Group V, has separate utility such as enrolling individuals in a reward program, calculating time points accumulated as a

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result of an accumulation session and permitting redemption of earned points for item of value, which is not a limitation in any of the other independently claimed inventions See MPEP § 806.05(d).

Inventions VI and I-V, VII are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, subcombination, invention of Group VI, has separate utility such as determining for each identified customers one of at least two categories of customers to which the individual has been assigned and furnishing different levels of customer service depending on the category to which a customer has been assigned, which is not a limitation in any of the other independently claimed inventions See MPEP § 806.05(d).

Inventions VII and I-VI are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, subcombination, invention of Group V, has separate utility such as receiving identification information relating to an individual from a client upon the establishment of a connection between the client and a network resource and adding time points accumulated and the credits awarded based on the connection between the client and the network, which is not a limitation in any of the other independently claimed inventions See MPEP § 806.05(d).

Inventions II and VII are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the

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subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because “receiving identification information relating to an individual from a client upon the establishment of a connection between the client and a network resource and adding time points accumulated and the credits awarded based on the connection between the client and the network” is the particular feature of the subcombination which is not a limitation for the independently claimed combination II. The subcombination has separate utility such as adding time points accumulated and the credits awarded based on the connection between the client and the network. Because the combination, as independently claimed does not require the particulars of the subcombination of the Group VII, this group shows a distinct relationship with each combination and subcombination. Examiner considers that since applicant independently claim the invention of this group, it is prima facie showing that the inventions are intended to be independent and distinct and are shown to be separately usable.

The examiner has required restriction between subcombinations usable together. Where applicant elects a subcombination and claims thereto are subsequently found allowable, any claim(s) depending from or otherwise requiring all the limitations of the allowable subcombination will be examined for patentability in accordance with 37 CFR 1.104. See MPEP § 821.04(a). Applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

The examiner has required restriction between combination and subcombination inventions. Where applicant elects a subcombination, and claims thereto are subsequently found allowable, any claim(s) depending from or otherwise requiring all the limitations of the allowable subcombination will be examined for patentability in accordance with 37 CFR 1.104. See MPEP § 821.04(a). Applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required because the inventions require a different field of search (see MPEP § 808.02), restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the


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inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yehdega Retta whose telephone number is (571) 272-6723. The examiner can normally be reached on 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


RETTA YEHDEGA
PRIMARY EXAMINER